



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

नं० 469]

नई दिल्ली, सोमवार, नवम्बर 17, 1986/कार्तिक 26, 1908

No. 459]

NEW DELHI, MONDAY, NOVEMBER 17, 1986/KARTIKA 26, 1908

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as
a separate compilation

गृह मंत्रालय

नई दिल्ली, 17 नवम्बर, 1986

अधिसूचना

का.आ. 841 (प्र).—केन्द्रीय सरकार ने विधि विरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) को धारा 3 के अधिनियम (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तारख 1 मई, 1986 को दल खालसा को विधि विरुद्ध संगम घोषित किया था ; और केन्द्रीय सरकार ने उक्त अधिनियम का धारा 5 के अधिनियम (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तारख 16 मई, 1986 को विधि विरुद्ध क्रियाकलाप (निवारण) अधिकरण गठित किया था जिसमें अन्ध प्रदेश उच्च न्यायालय के न्यायाधीश, न्यायमूर्ति आ. सी. श्रीरामूलू थे ;

और केन्द्रीय सरकार ने उक्त अधिनियम को धारा 4 को अधिनियम (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए

उक्त अधिसूचना को इस भाग का स्वायत्तनिर्माण करने के प्रयोजनार्थ कि उक्त संगम को विधि विरुद्ध घोषित करने के लिए पर्याप्त कारण हैं या नहीं, 26 मई, 1986 को उक्त अधिकरण को निर्दिष्ट किया था,

और उक्त अधिकरण ने उक्त अधिनियम को धारा 4 को अधिनियम (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, 30 अक्टूबर, 1986 को आदेश पारित किया,

अब केन्द्रीय सरकार उक्त अधिनियम को धारा 4 को अधिनियम (4) के अनुसरण में उक्त अधिकरण का उक्त आदेश प्रकाशित करता है, अर्थात्:—

आदेश

विधि विरुद्ध क्रियाकलाप (निवारण) अधिकरण के समक्ष (अंग्रेजी में प्रकाशित अधिसूचना देखिए)

[सं. 11/17017/37/86-आई एस (डे-7)]

सी.टी. बेंजामिन, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

New Delhi, the 17th November, 1986

NOTIFICATION

S.O. 841(E).—Whereas the Central Government in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) declared on the 1st May, 1986 the 'Dal Khalsa' to be an unlawful association;

And whereas the Central Government, in exercise of the powers conferred by sub-section (1) of section 5 of the said Act, constituted on the 16th May 1986, the Unlawful Activities (Prevention) Tribunal consisting of Shri Justice C. Sriramulu, Judge of the Andhra Pradesh High Court;

And whereas the Central Government in exercise of the powers conferred by sub-section (1) of section 4 of the said Act, referred the said notification to the said Tribunal on the 26th May, 1986, for the purpose of adjudicating whether or not there was sufficient cause for declaring the association as unlawful;

And whereas the said Tribunal in exercise of the powers conferred by sub-section (3) of section 4 of the Act made an order on the 30th October, 1986;

Now, therefore, in pursuance of sub-section (4) of section 4 of the said Act, the Central Government hereby publishes the said order of the said Tribunal, namely :—

BEFORE THE UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL (CONSISTING OF SHRI JUSTICE C. SRIRAMULU) A.P. HIGH COURT BUILDINGS, HYDERABAD-500266.

PRESENT :

SHRI JUSTICE C. SRIRAMULU, JUDGE HIGH COURT OF ANDHRA PRADESH

In the matter of reference under Section 4(1) of the Unlawful Activities (Prevention) Act (Central Act 37 of 1967)

Reference Case No. 1 of 1986

In Re : The Dal Khalsa

The Union of India : —Mr. Anand Swarup, represented by Advocate, Chandigarh.

For the Dal Khalsa :—No appearance, set ex parte.

Venue of the sittings :

- (1) At Hyderabad and dates of hearing Preliminary sittings on 7-6-1986 and 9-7-1986.
- (2) At New Delhi :—Ground Floor Hall, Punjab Bhavan, Copernicus Marg, New Delhi. 21st and 22nd July, 7th, 8th, 18th, 19th and 20th August, 12th, 15th, 17th, 18th and 19th September and 27th October, 1986.

- (3) At Simla:—Cedar Circuit Home, Punjab Government House, Simla. 16th, 17th and 20th October, 1986.

Date of this Order :—30th October, 1986 at Punjab Bhavan, Ground Floor Hall, New Delhi.

The Tribunal having issued show cause notice under Section 4(2) of the Unlawful Activities (Prevention) Act (Central Act 37 of 1967) (hereinafter referred to as 'the Act') on 7-6-1986 at High Court Buildings, Hyderabad to the Dal Khalsa and its office-bearers individually for their appearance and having issued a further Notice under Section 4(3) of the Act fixing the venue and dates of enquiry and having held enquiry in the presence of Mr. Anand Swarup, Advocate for the Central Government, at the venues and on the dates mentioned above and having heard the counsel on 27-10-1986 and the Dal Khalsa and its office-bearers having remained ex parte in spite of sufficient service of the Notices, made on this the 30th October, 1986, the following Order :

ORDER

C. SRIRAMULU, J. :

The Central Government by Notification S.O. No. 218(E) published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (ii), dated 1-5-1986, issued under Section 3, Sub-section (1) of the Act, has declared the Dal Khalsa to be an "Unlawful Association" as defined in the Act and directed, under the proviso to Sub-section (3) of that Section, that the said notification shall, subject to any order that may be made under Section 4 of the Act, have effect from the date of its publication in the Official Gazette.

The said Notification thus issued runs as follows :

MINISTRY OF HOME AFFAIRS

New Delhi, the 1st May, 1986

NOTIFICATION

S.O. 218(E).—Whereas the organisation known as 'Dal Khalsa'—

- (i) Which has declared as its main objective the establishment of a complete autonomous Khalsa State has, in pursuance of its objective, been preaching secession and disruption of the territorial integrity of India through its activities;
- (ii) whose office-bearers and activists have extended support to the creation of 'Khalistan' a separate State, by exhorting Sikhs, through circulation of posters and Press Notes to indulge in such activities as burning of the Indian National flag, finalising their future course of action and arming themselves to achieve the goal of 'Khalsa Raj' ;
- (iii) whose activists had reportedly formed a parallel 'Khalistan Government-in-exile' and allocated portfolios to its members;

And whereas the Central Government is of the opinion that for the reasons aforesaid, the 'Dal Khalsa' is an unlawful association;

And whereas the Central Government is further of the opinion that because of the activities of the office-bearers and activists of the 'Dal Khalsa' in the reported formation of a parallel 'Khalistan Government in exile' and other activities, it is necessary to declare the 'Dal Khalsa' to be unlawful association with immediate effect;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (Act 37 of 1967), the Central Government hereby declares the 'Dal Khalsa' to be an unlawful association, and directs, in exercise of the powers conferred by the proviso to Sub-section (3) of that Section, that this notification shall, subject to any order that may be made under Section 4 of the said Act, have effect from the date of its publication in the official Gazette.

The Central Government has, by Notification dated 16-5-1986 published in the Gazette of India Extraordinary, Part-II, Section 3, Sub-section (ii), issued under Sub-section (1) of Section 5 of the Act, constituted this Tribunal and under Section 4(1) of the Act, the Central Government has referred the said Notification dated 1-5-1986 issued under S. 3 (1) of the Act to this Tribunal for the purpose of adjudicating "whether or not there is sufficient cause for declaring the Dal Khalsa an "Unlawful Association", as defined under the Act.

Thereafter, this Tribunal issued Notices on 7-6-1986 under Section 4(2) of the Act calling upon the association/organisation, namely, the Dal Khalsa and each of its office-bearer affected by the Notice to 'Show Cause' in writing within 30 days from the date of service of such Notice why the association/organisation of Dal Khalsa should not be declared an 'Unlawful Association' under the Act.

The said Notice in the name of the association/organisation, the Dal Khalsa and also to each of its office-bearer was sent to their last known addresses by registered post with Acknowledgement Due and all such registered letters sent in the names of the Dal Khalsa and each of its office-bearer have since returned unserved, as addressee 'not found'.

The said notice in the name of the association the Dal Khalsa and also of each of its office-bearer was served on such association and its office-bearers by affixing a copy of the Notice on a conspicuous part of the last known addresses of the Dal Khalsa and also that of each of the office-bearer of the association.

The said notice in the name of the association and also that of each of the office-bearer of the association of the Dal Khalsa was also served on such association and each of its office-bearer by proclaiming by 'beat of drum' and by means of 'loud-speaker', the contents of the Notice were broadcast in the area in which the activities of the association were ordinarily carried on before the ban.

Further, the said Notice has also been served, by their publication in two English, two Punjabi and each of Hindi and Urdu daily newspapers calling upon the Dal Khalsa and each of its office-bearer to appear and 'Show Cause' in writing addressed to the Registrar of the Tribunal, Hyderabad, at the address shown therein, either personally or through their counsel and that, in default, it will be considered that the said association and its office-bearers have no representation to make and that the enquiry in the case will be conducted in their absence ex parte.

In a further Notice issued by this Tribunal dated 9-7-1986 under Section 4(3) of the said Act, containing detailed facts stated in the above paras as to the mode of publication of the Notice issued under Section 4(1) of the Act dated 7-6-1986 were mentioned and a further opportunity was given to the association/organisation, the Dal Khalsa and each of its office bearer, intimating the dates and venue of the enquiry to be held in the case and further calling upon the said association and any person desiring to give evidence to appear in person or through an authorised representative and participate in the enquiry for adjudicating the question "whether or not there is sufficient cause for declaring the Dal Khalsa an "Unlawful Association" and further informing them that if they fail to appear and participate in the said enquiry in the case the Tribunal will proceed with the enquiry in their absence ex parte. This Notification dated 9-7-1986 issued by this Tribunal under Section 4(3) of the said Act was issued in the name of the association Dal Khalsa by registered post with Acknowledgement Due and all such registered covers have been returned unserved as addressees not found. The said Notice issued under Section 4(3) of the Act was also published in two English, two Punjabi and each of Hindi and Urdu daily newspapers.

In spite of the service of the said Notices issued by this Tribunal, none appeared on behalf of the association/organisation Dal Khalsa during the enquiry and at the hearings of the case on the dates mentioned above. In each of the said two Notices, the names and addresses of each of the office-bearer of the association/association Dal Khalsa also were mentioned. In the circumstances, they were set ex parte and the enquiry proceeded accordingly behind their back.

The Preamble of the Act clearly lays down that the Unlawful Activities (Prevention) Act, 1967 is an Act to provide for the more effective prevention of certain unlawful activities of individuals and associations and for matters connected therewith. The necessity for the Central Government to constitute this Tribunal arose on account of certain activities carried on by association called by the name the Dal Khalsa in the State of Punjab which the Central Government considered it as "Unlawful Association" on account of its indulgence in 'unlawful activities' as defined in the Act. It is to be borne in mind that it is not for the first time that the Central Government initiated action and proceedings against the association/organisation namely the Dal Khalsa declaring it as "Unlawful Association" in the exercise of its powers under Section 3(1) and the proviso to Sub-section (3) of

the Act and such Notifications issued by the Central Government were commenced by the respective Tribunals constituted under the Act. The Central Government as early as in 1982 declared the association known as the Dal Khalsa an "Unlawful Association" as defined in the Act by Notification bearing No. S.O. 295(E) dated 1-5-1982 marked as Ex. G-2 on the grounds mentioned therein. By another Notification bearing No. S.O. 373(E) dated 29-5-1982 as regards the Dal Khalsa the Central Government constituted the Tribunal consisting of Mr. Justice D. N. Mehta, a Judge of the Bombay High Court, under the said Act and referred the said Notification to the said Tribunal. The said Tribunal by its order dated 19th October, 1982 Ex. G-4 confirmed the Notification issued by the Central Government dated 1-5-1982 and held that there was sufficient cause for declaring the Dal Khalsa as an "Unlawful Association" under the provisions of the said Act, and the said Notification dated 1-5-1982 in view of the confirmation order Ex. G-5 passed by the Tribunal consisting of Sri Justice D. N. Mehta of the Bombay High Court, remained in force against the said Dal Khalsa for a period of two years from 1-5-1982 to 30-4-1984.

Thereafter, the Central Government by Notification Ex. G-4 in the Gazette of India, Extra-ordinary in S.O. No. 338(E) issued under Section 3, Sub-section (ii) dated 1-5-1984 read with proviso to Sub-section (3) of that Section declared the association/organisation (the Dal Khalsa) to be "Unlawful Association" under the said Act and referred the said Notification to the Tribunal consisting of Mr. Justice P. R. Gokulakrishnan, Judge, High Court of Madras (as he then was) for adjudicating "whether or not there is sufficient cause for declaring the Dal Khalsa an "Unlawful Association". The said Tribunal by its order dated 25-10-1984 under Ex. G-5 confirmed the said Notification issued by the Government of India and declared the association/organisation the Dal Khalsa as an "Unlawful Association".

In view of the present Notification Ex. G-1 issued by the Central Government No. S.O. 218(E) dated 1-5-1986 declaring the Dal Khalsa as an "Unlawful Association" and the reference Ex. G-28 made to this Tribunal under Section 4(1) of the said Act for the purpose of adjudicating "whether or not there is sufficient cause for declaring the Dal Khalsa as "Unlawful Association", the following two questions have to be determined in this case :

1. Whether or not there is sufficient cause for declaring the Dal Khalsa as an "Unlawful Association"?
2. Whether the Notification Ex. G-1 issued by the Central Government is in accordance with the provisions of the Act ?

Before I take up for consideration the evidence adduced by the Central Government, it is expedient to consider the meaning of the expressions "association", "unlawful association", and "unlawful activity" and the scope and meaning of the other provisions of the Act which are material for consideration in this case.

'Association'—"Any combination or body of individuals" is an "association" under Section 2(a) of the Act. What makes such an "association" as "Unlawful Association" is dealt with in Section 2(g) of the Act which reads thus :

Section 2(g) : "Any Association —

(1) which has for its object —

- (a) any Unlawful Activity; or
- (b) any activity which is punishable under section 153-A I.P.C.; or
- (c) any activity which is punishable under Section 153-B I.P.C.; or

(2) which encourages or aids persons —

- (a) to undertake any unlawful activity; or
- (b) to undertake any activity punishable under Section 153-A I.P.C.; or
- (c) to undertake any activity punishable under Section 153-B I.P.C.; or

(3) whose members themselves :—

- (a) undertake any Unlawful activity; or
- (b) undertake any activity punishable under Section 153-A I.P.C.; or
- (c) undertake any activity punishable under Section 153-B I.P.C.

is an 'Unlawful Association'.

This again leads to an understanding of the meaning of the expression "Unlawful Activity" and as to what constitute offences under Section 153-A and 153-B of the Indian Penal Code.

Section 153-A I.P.C. reads as follows :

"Promoting enmity between different groups on grounds of religion, race, language, etc., and doing acts prejudicial to maintenance of harmony."

(1) Whoever :—

- (a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes, or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony, feelings or enmity or hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or
- (b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, or
- (c) organizes and exercises, movement, drill or other similar activity intending that the

participants in that activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participants in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religion, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial language or regional group or caste or community.)

shall be punished with imprisonment which may extend to three years, or with fine or with both.

offence committed in place of worship, etc—

(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

Section 153-B I.P.C. lays down :

153-B Imputations, assertions prejudicial to national integration.

(1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise :—

- (a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the constitution of India as by law established or uphold the sovereignty or integrity of India, or
- (b) asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied or deprived of their rights as citizens of India, or
- (c) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons,

shall be punished with imprisonment which may extend to three years, or with fine or with both.

(2) Whoever commits an offence specified in sub-section (1), in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

Under section 2(f) of the Act, "unlawful activity", in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise),—

- (i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union or which incites any individuals or group of individuals to bring about such cession or secession;
- (ii) which disclaims, questions, disrupts or intended is to disrupt the sovereignty and territorial integrity of India;

Section 2(d) of the Act lays down that "secession of a part of the territory of India from the Union" includes the assertion of any claim to determine whether such part will remain a part of territory of India.

Section 3, sub-section (1) of the Act empowers the Central Government to declare 'Unlawful' any association if it was of opinion that such an association, is or has become, an Unlawful association, by notification in the official Gazette. Sub-section (2) of section 3 of the Act requires that such notification issued by the Government shall specify the grounds and such other particulars on which the said notification was issued. Sub-section (3) of S. 3 provides that no such Notification shall have effect until the Tribunal had, by an order made under S.4, confirmed the declaration made thereunder and the order was published in the official gazette. The proviso to sub-section (3) of S. 3, however, conferred special power on Central Government to give immediate effect to the notification, if in its opinion, circumstances existed which rendered it necessary to declare an association to be unlawful with immediate effect, for reasons to be stated in writing.

Under sub-s. (1) of S. 4 of the Act, the Central Government was required to refer the notification to the Tribunal for the purpose of adjudicating whether or not there was sufficient cause for declaring the association unlawful. Sub-s. (2) of S.4 lays down that on receipt of a reference under sub-s. (1), the Tribunal shall call upon the association affected, by notice in writing, to show cause within 30 days from the date of service of such notice why the association should not be declared unlawful. Sub-s. 3 of S. 4 provided that after considering the cause if any, shown by the association, or the office-bearers or members thereof, the Tribunal shall hold an inquiry in the manner specified in S. 9 and after calling for such further information as it may consider necessary from the Central Government or from any office-bearer or member of the association, it shall decide whether or not there is sufficient cause for declaring the association to be unlawful and

make such order, either confirming the declaration made in the notification or cancelling the same. Sub-section (4) of S. 4 lays down that the order of the Tribunal made under sub-s. (3) shall be published in the Official Gazette.

Under Sub-s. (1) of S. 5, the Central Government by notification in the Official Gazette, may constitute, as and when necessary a Tribunal, to be known as 'the Unlawful Activities (Prevention) Tribunal', consisting of one person to be appointed by the Central Government and under the proviso thereof, the person so appointed shall be a Judge of a High Court. sub-section (5) of S. 5 gave powers to the Tribunal to regulate its own procedure in all matters arising out of the discharge of its functions, including the place or places at which it will hold its sittings. Under S. 5(6) of the Act, the Tribunal shall, for the purpose of making an inquiry under the Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

- (a) the summoning and enforcing the attendance of any witness and examining him on oath;
- (b) the discovery and production of any document or other material object producible as evidence;
- (c) the reception of evidence on affidavits;
- (d) the requisitioning of any public record from any court or office;
- (e) the issuing of any commission for the examination of witnesses.

Further, under sub-s. (7) of S. 5 of the Act,

"Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of Ss. 193 and 228 of the Indian Penal Code and the Tribunal shall be deemed to be a Civil Court for the purposes of S. 195 and Chapter XXXV of the Code of Criminal Procedure, 1973."

Under S. 6(1), a notification issued under S. 3 shall, if the declaration made therein is confirmed by the Tribunal by an order made under S. 4, remain in force for a period of two years from the date on which the notification becomes effective. Sub-s. (2) of S. 6 empowers the Central Govt. to cancel the notification under S. 3 at any time whether or not the said declaration had been confirmed by the Tribunal. S. 9 lays down that the procedure to be followed by the Tribunal in holding any inquiry under sub-s. (3) of S. 4 would be regulated by the procedure laid down in the Code of Civil Procedure and the decision of the Tribunal shall be final.

The Central Government, in support of its notification in the official gazette declaring the Dal Khalsa as an 'Unlawful Association' as defined in the Act and the grounds relied upon in the said notification, has examined in this Case 11 witnesses and marked 50 documents.

This Tribunal issued show cause notice dt. 7-6-86

to the Dal Khalsa under section 4(2) of the Act, under Registered post acknowledgment due. Thereafter, the Tribunal issued the second notice on 9-7-1986, under section 4(3) of the Act, intimating the dates of enquiry and providing a further opportunity to the Dal Khalsa and each of its office-bearers to participate in the enquiry to be held in this case giving the details of the dates and the venue of enquiry. Harsimram Singh, the President of the Dal Khalsa, sent a letter dt. 12-7-1986 by post, marked as Ex. G-49, wherein he admitted to have gone through the show-cause notice dated 7-6-1986 published in the daily newspaper the 'Ajit', in its issue dated 17-6-1986, and to have come to know about the constitution of this Tribunal and the enquiry before it under the Act. He also admitted in his letter that his name was mentioned in the show-cause notice as the Mukh Panch of the banned organisation the Dal Khalsa. The contents of the letter disclose that he was aware of the 'ban' on the Dal Khalsa, on the first occasion in May, 1982, for a period of two years and, on the second occasion in May, 1984, for a further period of two years. He pleaded in his letter that certain developments took place within the organisation, the Dal Khalsa, and as a consequence thereof, he was expelled from the Dal Khalsa in March, 1982, and that the decision as to his expulsion was announced on 17/18th March, 1982 by one Jaswant Singh, another Panch of the Dal Khalsa, from Amritsar. He further stated that though he had challenged that decision before the High Command of the organisation Dal Khalsa but of no avail. There is further mention in the letter that he submitted his resignation from the Dal Khalsa after the decision of the High Command, which was later accepted. He pleaded in his letter that he has no authority to speak on behalf of the organisation the Dal Khalsa. From this letter of Shri Harsimram Singh, it is established that there has been in existence an organisation called the Dal Khalsa, which was banned under the provisions of the Unlawful Activities (Prevention) Act, 1967, firstly in May, 1982 and again in May, 1984. It is also established from this letter that Shri Harsimram Singh was the President of the said banned organisation. He does not challenge in his letter the validity or legality of the earlier orders of the Tribunals confirming the ban imposed in 1982 and 1984. He does not also challenge the validity or legality of the notification, Ex. G-1, dated 1-5-1986, and the inquiry proposed to be conducted by this Tribunal in pursuance of the notice. No doubt, he pleaded that he had no authority to plead on behalf of the Dal Khalsa in view of his resignation from the party, but he has not placed anything on record to show that he did resign from the party, and that his resignation was accepted. He further pleaded in his letter that he had retired from politics and had started a Public School, himself being its Director in Anandapur. But it is in the evidence of G.W. 3, the Deputy Superintendent of Police who was entrusted with summons to be served on him that the said Shri Harsimram Singh could not be traced anywhere in Punjab and that he has given a letter with false statement that he has resigned from the Dal Khalsa. I cannot, therefore, accept his statement that he resigned from the Dal Khalsa. In the circumstances one has to irresistably conclude that Shri Harsimram Singh had notice of the proceedings of this Tribunal constituted

under the provisions of the Unlawful Activities (Prevention) Act, 1967, and that in spite of knowledge of the show cause notice dated 7-6-1986 he did not participate in the enquiry and he allowed the enquiry before this Tribunal to proceed ex-parte. The service of summons on Harsimram Singh is the service on the organisation, the Dal Khalsa. Thus, neither the Dal Khalsa nor any of its office-bearers have put forward their defence as to why the Organisation, the Dal Khalsa, should not be declared as an 'unlawful association'. From the admissions made by the Chairman of the Dal Khalsa in his letter it is established that the Dal Khalsa was aware of the earlier proceedings under the Act in 1982 and 1984, declaring it on both the occasions as an Unlawful association and the enforcement of the ban on the Dal Khalsa till April, 1986. Further, in view of the fact that Shri Harsimram Singh merely sent the said letter dated 12-7-1986 to this Tribunal and did not participate in the enquiry and allowed it to proceed ex-parte clearly stands established that the Dal Khalsa has no defence to offer in the case. But, its non-participation in the enquiry before this Tribunal does not absolve the Central Government from discharging its burden to establish that "there is sufficient cause to declare the Dal Khalsa as an 'unlawful association' under the Act.

This Tribunal has, therefore, to determine the question as to sufficiency or otherwise of the cause in declaring the Dal Khalsa as an 'unlawful association' on the basis of the evidence made available on record before this Tribunal. The oral and documentary evidence relied upon by the Central Government relates to the grounds and instances of unlawful activities mentioned in the notification, Ex. G-1, issued by the Central Government under Section 3(1) of the Act and also relates to the subsequent events and acts of 'unlawful activities' indulged in by the Dal Khalsa and its members, associates and activists, subsequent to the date of the issuance of the notification by the Central Government.

Grounds : The Central Government has furnished three grounds of 'unlawful activities' attributed against the Dal Khalsa. Firstly, the main object of the Dal Khalsa, according to the Central Government is the establishment of a completely autonomous 'Khalsa State' and that, in pursuance of that object the organisation has been preaching secession and disruption of the territorial integrity of India through its activists; Secondly that the office-bearers and activists of the organisation have been extending support to the creation of Khalistan, a separate State, by exhorting Sikhs through circulation of posters and press notes, to indulge in such activities as the burning of the Indian national flag and arming themselves to achieve the goal of Khalsa Raj and planning of the future course of action for achieving its goal; And thirdly the activists of the organisation reportedly formed a parallel Khalistan government-in-exile and allocated portfolios to its members.

These grounds and detailed instances relating thereto attributing allegations of indulgence in 'unlawful activities' by the Dal Khalsa, its office-bearers and activists are sought to be established by the

Central Government by the testimony of G.W.1, G.W. 2, G.W. 9 and G.W. 11.

It is in the evidence of G.W. 1 Shri Benjamin that in the course of discharge of his duties and while dealing with matters relating to the Punjab situation and individuals and organisation whose activities are prejudicial to the interests of security of the State and public order, he came across various reports, information, data, etc., furnished by various agencies and sources, including the Government of Punjab about the activities of the organisation, known as the Dal Khalsa and its activists, office-bearers and leaders. He studied the documents, official and private, received by him relating to the Dal Khalsa, its office-bearers and workers, including the previous notifications issued against the said organisation under the provisions of the unlawful Activities (Prevention) Act. According to him, Ex.G-2, is the notification issued by the Central Government on 1-5-1982, and Ex.G-3 is another notification, also issued by the Central Government on 1-5-1984 declaring the Dal Khalsa as an 'unlawful association' on both the occasions. G.W.1 further would have it that the Central Government referred the first notification Ex.G-2, to the Tribunal under the Act consisting of Hon'ble Shri Justice D.N. Metha, a Judge of the Bombay High Court, under Section 4(1) of the Act and Ex.G-4 is the confirmation order passed by the said Hon'ble Judge. Similarly, the Central Government referred the second notification, Ex. G-3, to the Tribunal consisting of Hon'ble Shri Justice P. R. Gokulakrishnan, then a Judge of the Madras High Court and Ex. G-5 is the confirmation order passed by the said Hon'ble Judge. G.W. 1 deposed that his study of the earlier notifications, the orders of the Tribunals and the source material placed before him from the agencies of the Punjab Government disclosed that the Dal Khalsa is an extremist, militant sikh youth organisation, preaching sessionist activities set up with the avowed object of attaining an independent, sovereign Sikh nation. According to him, one of the major aims of Dal Khalsa is 'to establish a sovereign Khalistan Raj' in derogation to the Constitution of India. Its other aim and object being to fight against the anti-sikh organisations and Gurudom sect. Ex. G-6 is the English translation of the Constitution of the Dal Khalsa, the original of which is in Gurumukhi. G.W. 1 further deposed that in pursuance of its objective of establishing an independence sovereign Khalistan State, the Dal Khalsa has been preaching secession and working for the disruption of the territorial integrity of India, through its activists. This evidence of G.W. 1 is corroborated by the testimony of G.Ws. 2, 3, 9 and 11 in material particulars. It cannot be disputed that on account of the Dal Khalsa having amongst other objects, mentioned in its Constitution, the establishment of an independent and sovereign Khalistan State in derogation to the Constitution of India, was declared as an 'unlawful association' on the earlier occasions by the Central Government and confirmed by two Tribunals.

The another instance of allegation of 'unlawful activity' attributed to the Dal Khalsa, according to

G.W. 1, is that the Dal Khalsa employed five of its members to hijack an aircraft of the Indian Airlines to Lahore on 29th September, 1981, and its demand, amongst others, of acceptance by the Government of India the establishment of a separate Sikh State to be called Khalistan. G.W. 2, Prithpal Singh and G.W. 3, Bhajan Singh corroborated the testimony of G.W. 1 in this regard.

The third allegation of 'unlawful activity' against the Dal Khalsa, spoken to by G.W. 1 is that the concept of Khalistan was mooted by Dr. Jagjit Singh Chauhan, who was the Finance Minister of Punjab in the Akali Dal Ministry in 1968. He made a declaration on 16th June, 1980 in front of Akal Takhat Sahib at Amritsar announcing the establishment of the Government of Khalistan, whose main object is to establish a separate sovereign and independent country. G.W. 1 further deposed that the Dal Khalsa, its office-bearers and activists supported the slogan of Khalistan raised by Dr. Jagjit Singh Chauhan and the demand for the creation of Khalistan. According to him, the activities of the office-bearers and workers of the Dal Khalsa also included the burning of the Indian national flag and participating in the gatherings and demonstrations to promote the cause of separate State of Khalistan. Objectionable posters and letters, threatening the lives of individuals in different walks of life who oppose the formation of Khalistan State had also been issued in the name of the Dal Khalsa. This evidence of G.W. 1 is corroborated by G.W. 2, Prithpal Singh.

The Central Government also relied upon Ex. G-49. 'White Paper on Punjab agitation' marked by G.W. 5. Nasib Chand containing a very material and revealing information as regards the secessionist activities of the Dal Khalsa and other militant, anti-national and several secessionist sikh organisations. The relevant portions are extracted herein :

"The Dal Khalsa was originally established in India on April 13, 1978 with the avowed object of demanding the creation of an independent sovereign Sikh State. It appears to have been based on the ideas of the late Giani Bakshish Singh, a pro-Naxalite leader of Birmingham. The Dal Khalsa advocates use of violence to achieve its objectives. According to it "only terror will help us to achieve our target". It is the only language which the 20th Century understands. Jaswant Singh Thakedar, Mukh Panch of the Dal Khalsa, UK said "Political power is not served to anybody on a platter: nor it can be acquired through 'Bhakti', without a guerilla warfare and without an armed revolt it would be impossible to achieve our aim". 'Political power' flows out of the barrel of a gun. An armed battle is the only way of achieving Khalistan."

"In February, 1982, the 'Vancouver Sun' carried a report about the attempts of Sikh extremist elements to recruit Sikhs in British Columbia in Canada and have them trained with the help of a mercenary who

had fought in Rhodesia. It cited an advertisement inserted by one Johan Vanderhorst calling for young volunteers with previous military experience on a monthly salary of US \$ 1,250. Johan Vanderhorst told a correspondent of the newspaper that he had been hired by a group of Indians to constitute a team of men with military experience to train Sikhs in British Columbia in the use of firearms and in combat techniques. He was also quoted as having claimed that the training was intended to help Sikhs take over the Punjab."

"A pamphlet circulated on May 29, 1983, under the names of Thakedar, described as member of the Supreme Court of Dal Khalsa and Devinder Singh Parmar, described as member of the Supreme Executive Council of the organisation, dubbed the Indian Constitution as a worthless document so far the Sikhs were concerned and said that that the Dal Khalsa proposes to challenge India in International Court of Justice and seek help from the UN to put pressure on India "To quit the Sikh Homeland". At a congregation on the June 12, 1983, Shri Thakedar claimed the responsibility of the Dal Khalsa in the killing of Lala Jagat Narain and Shri Atwal, DIG Police and warned that they would take similar revenge on Police officials for the death of Sikhs during the Akali Morcha. He also advocated violence to achieve their objectives and declared that the organisation would not be satisfied with anything less than the creation of an independent nation for Sikhs. Shri Thakedar threatened the Government of India on Shri Talwinder Singh Parmar's arrest by the West German authorities. At a meeting held in South Hall in July, 1983 Shri Thakedar said that the Dal Khalsa was getting ready for an armed struggle in the Punjab and that many people in high places in Punjab had expressed their secret support to the organisation and that even Army officers were prepared to rise in revolt. So-called "traitors to the community" were threatened with punishment."

"Addressing some Sikhs of foreign nationality at a 'Political education camp', organised by the Dal Khalsa on the August 14, 1983, Shri Thakedar declared that the organisation would launch a guerilla struggle. During a visit to London in the third week of September, 1983 Shri Surjan Singh Gill, the so-called Consul-General of Khalistan in Vancouver claimed that the Government of Pakistan had promised to give them assistance in their fight and that once Khalistan was formed, Pakistan would accord a status similar to that of the Vatican to the Nankana Sahib. Dal Khalsa obviously regards Pakistan as a strategic ally. In the first week of Novem-

ber, 1983, a book in Punjabi 'Khalsa Raj' written by Shri Thakedar was released for sale in the U.K. It mentions (1) that the Dal Khalsa was committed to establishment of a 'Khalsa Raj'; (2) it planned to create religious consciousness amongst the Sikhs and to cooperate with other communities in the world which were similarly fighting for independence."

"In April 1984, Shri Man Mohan Singh Bajaj, Mukh Panch of the Dal Khalsa, West Germany, justified the assassinations of S/Shri Harbans Singh Manchanda and Vishwanath Tewari claiming that these were done at the 'Hukam of the Guru Sahib'. On the June 11, 1984, it announced that it had set up a clandestine Government in exile. Shri Jaswant Singh Thakedar was named as Defence Minister while Shri Man Mohan Singh Bajaj as Minister for Home Affairs, Dr. Harinder Singh Dilgir was named Foreign Minister while Gajinder Singh, one of the hijackers was named Minister for Agriculture and Industries."

Another instance of 'unlawful activity' alleged by G.W. 1 in his evidence is that the Indian Express, in its issue dated 15-6-1984, marked as Ex. G-7, carried a news item from Shri B. K. Tiwari, its London-based correspondent, that the Dal Khalsa and its activists operating in London have framed a parallel Khalistan Government-in-exile with Dr. Harjinder Singh Gilgir and Jaswant Singh Thakedar as Foreign Minister and Home Minister respectively. The news item further disclosed that Dr. Jagjit Singh Chauhan was the self-styled President of the Republic of Khalistan.

G.W. 1 refers to various other instances of allegations of 'unlawful activity' levelled against the Dal Khalsa and its activists contained in various reports received by the Central Government from G.W. 3, Bhajan Singh, the Deputy Superintendent of Police, Patiala, Punjab. It is in the evidence of G.W. 1 that on 27th December, 1985, a separate meeting of Dal Khalsa workers was held in the Sarai of Gurudwara Fatehgarh Sahib, district Patiala, under the Presidency of Raj Vir Singh Khalsa, where discussions were held on organisational affairs and decisions were taken to burn the National Flag on the Republic Day i.e., 26-1-1986. That information is contained in the report, Ex. G-8, sent to the Central Government by G.W. 3, Bhajan Singh. Another secret meeting of the Dal Khalsa was held in the Model Town, Patiala, on 8-1-1986, with Raj Vir Singh, Mukh Panch, in the chair, wherein it was decided to step up party work and mobilise the Sikh youths in support of the demand and struggle for Khalistan. It also resolved to observe the Republic Day on 26-1-1986 as 'Black Day' by disrupting the Republic Day functions and burning the National Flag. This evidence is based on Ex. G-9, a report received by the Central Government from G.W. 3, Shri Bhajan Singh. Two cyclostyled leaflets in Punjabi written by Mohinder Singh, one of the founder

leaders of the Dal Khalsa and Harjinder Singh Khalsa an activist of the Dal Khalsa, were noticed in circulation at Patiala in December, 1985. In the leaflet, Ex. G-10, captioned in Punjabi as 'SIKHAN LAI AZADI DA DIN' (the day of Independence for the Sikhs), the Sikhs have been asked to finalise their future course of action whether they want to live the life of slaves or become independent. Ex. G-11 is the English translation of Ex. G-10. Under the second leaflet, Ex. G-12, of which Ex. G-13 is the English translation, the Sikhs have been asked to girdle up their loins for the attainment of Khalistan. It maintained that the day was for approaching when the 'Kesari' Tag of Khalistan will find its place on the United Nations Organisation building. Ex. G-14, the English translation of which Ex. G-15 is the original is a letter which blames the Akali leaders as power-hungry and threatened them with dire consequences, if they do not side with the Dal Khalsa activists. A press note Ex. G-18 of which Ex. G-19 is the English translation, was issued jointly by Bhai Ram Singh and Sadhu Singh from the headquarters of the Dal Khalsa at Anandpur Sahib and it was circulated throughout Punjab, particularly in Patiala. It contained an appeal to the Sikh youth to arm themselves to achieve the goal of Khalsa Raj. All these documents, Exs. G-10, G-12, G-14, and G-18 were sent by G.W. 3, Bhajan Singh to the Government. On a consideration of all these documents and other material placed before the Government, the Central Government was of the opinion that the Dal Khalsa, which has been continuing its 'unlawful activities' in spite of the ban, should continue to be banned and, accordingly, the notification, Ex. G-1, was issued by it. G.W. 1 identifies the notification, Ex. G-28, dt. 16-5-1986, published in the Gazette of India Extraordinary, constituting this Tribunal.

G.W. 2, Prithipal Singh, speaks about the Constitution of the Dal Khalsa, which is in Gurmukhi script, the English translation of which is marked as Ex. G-6. He sent Ex. G-6 to his head office and the head office in turn sent it to the Central Government. According to Ex. G-6, the following are the objects of the Dal Khalsa: 1. To establish Khalsa State with full sovereignty, based upon the Khalsa principles; 2. To co-operate with the nations of the world which are struggling for their freedom; 3. To fight against the economic exploitation; 4. To awaken the religious feelings among the Sikhs; and 5. To struggle against the Gurudom sects and organisations opposed to the Panth.

G.W. 3, Bhajan Singh, identifies the reports Ex. G-8, Ex. G-9, Ex. G-10, and G-12, as having been sent by him under covering letter, Ex. G-16, to his head office, which were transmitted to the Central Government, and he corroborated the evidence of G.W. 1 as regards the facts contained in Exs. G-8, G-9, G-10, and G-12. According to G.W. 3, the press note, Ex. G-18, specifically mentions the threat administered jointly by Bhai Ram Singh and Sadhu Singh, under the stamp and seal of the head of the Dal Khalsa at Anandpur Sahib, to Shri Bhajan Lal, the then Chief Minister of Haryana, when he got arrested one Prof. Darshan Singh, a fire-brand Sikh religious speaker, to desist himself

from anti-Sikh actions lest he would meet the fates of Lalit Makhn and Arjun Dass, both prominent Cong. I leaders, who were killed by the Sikh extremists. The press note demanded the release of all Sikh youth and reinstatement of the Sikh soldiers who were suspended when they deserted the army after the Operation Blue Star. G.W. 3 further would have it that the Dal Khalsa activists are fire-brand revolutionaries, who have been indulging in secessionist and subversive activities inside the country and, particularly in the Punjab State, by remaining underground and also in other countries, particularly in the U.K., Canada, and West Germany, after absconding from India, and that the ultimate goal of the Khalsa activists is to attain a separate, independent sovereign State, Khalistan, after secession of Punjab State territory from the Union of India and form their own Government and have their own currency.

These are the various acts of 'unlawful activities' indulged in by the office-bearers, and the activists of the Dal Khalsa referred to by the aforesaid witnesses as having occurred before the date of the notification, Ex. G-1, dt. 1-5-1986, issued by the Central Government under s. 3(1) of the Act, and which amply supports the grounds of 'unlawful activity' attributed against the Dal Khalsa and its activists.

The cumulative effect of all the facts and circumstances, as discussed above, establishes the case of the Central Government for initiation of action under s. 3(1) and, accordingly, I hold that the materials summarised above is sufficient to hold that there is sufficient cause for the notification issued by the Central Government, under Ex. G-1, declaring the Dal Khalsa as an 'unlawful association'.

Additional grounds :—

The Central Government has also relied upon instances of allegations of 'unlawful activities' against the Dal Khalsa and its activists during the period subsequent to the date of the notification, Ex. G-1, dt. 1-5-1986. It is in the evidence of G.W. 9, Hukum Chand Diwan, that the aims and objects of the Dal Khalsa and the National Council of Khalistan are more or less the same, i.e., to achieve a separate sovereign State for the Sikhs by separation of the Sikh populated areas from the other territory of the Indian Union. On account of the ban on the Dal Khalsa and the National Council of Khalistan, some of the office-bearers, leaders and activists of these organisations went out of India and others are operating from underground, particularly in Punjab, and other parts of the country propagating the concept of Khalistan and working for achieving their goal of Khalistan by addressing gatherings and meetings surreptitiously and escaping arrest by the Police. It is on account of the ban on these organisations, a number of splinter groups have sprung up, who are carrying on the unlawful activities as were carried on by the Dal Khalsa and the National Council of Khalistan and they are working under different names such as the Dashmesh Regiment, the All India Sikh Students' Federation, Khalistan Liberation Army, the Khalistan Commando Force, Young Star, etc., etc.

G.W. 11, Shri Sital Das, the Superintendent of Police, C.I.D. Amritsar, testified that on the basis of his experience and knowledge of his having worked in Amritsar district and also taking into consideration, Ex. G-6, the Constitution of Dal Khalsa, he could say that the main object of the Dal Khalsa is the establishment of a completely autonomous sovereign Sikh State and in pursuance of its objective, the office-bearers, the workers and the leaders of the Dal Khalsa have been indulging in writing articles, delivering speeches, addressing gatherings, circulation of posters, press notes, preaching secession and disruption of territorial integrity of India, extending support to the creation of Khalistan as a separate State by exhorting the Sikhs, burning of the Indian National Flag, collecting and using of arms by its workers and training terrorists to create anarchy, upsetting the normal life of the people and indulging in violence, loot, murders, and exhorting the Sikhs to create Khalsa Raj. He also corroborated the testimony of G.W. 9 and stated that in view of the ban on the Dal Khalsa and the National Council of Khalistan since May, 1982, under the provisions of the Act, some of the office-bearers, leaders and activists of these organisations, left India but the slogan raised by them, namely, the establishment of Khalistan has gained popular support among the terrorists and all such leaders and workers have formed individual organisations under different labels and names and most of the workers of such organisations, which are in the nature of splinter groups consisting of militants, terrorists and secessionists like Khalistan Commando Force, Khalistan Liberation Army, Babbar Khalsa, Dashmesh Regiment, the All India Sikh Students' Federation, etc., etc.

G.W. 5, Naseeb Chand, Inspector of Police, C.I.D., Chandigarh, speaks about the various facts contained in the allegations of 'unlawful activities' indulged in by the activists of the Dal Khalsa subsequent to the issuance of the notification, Ex. G-1, dated 1-5-1986. The Patiala-based Punjabi daily, 'CHARDHIKALA', dated 8-8-86, published a news item that Khalistan flags would be hoisted at various places in Punjab on Independence Day, i.e. 15th August, 1986, and that the decision to hoist Khalistan flag was taken at a meeting of the Dal Khalsa at Patiala on August 7, 1986. The meeting was prominently attended by Mohinder Singh Bhagi, Simranjit Singh, Rajbir Singh and Jasmail Singh. It was also decided to burn the Indian National flag on that day and to parcel the ash of such burnt flags to the President, the Prime Minister of India and the Chief Minister of the State of Punjab. Ex. G-33 is the press report, and Ex. G-34 is its English translation.

G.W. 5 also relied upon the press note, Ex. G-37, of which Ex. G-38 is the English translation, appearing in the daily Hind Samachar (Urdu script) published from Jalandhar, containing a report in its issue dated 13th August, 1986, which was based upon a letter dated 10-8-1986 sent by Gurbachan Singh Khalsa, the self-styled speaker of the Dal Khalsa (Khalistan State). The letter purportedly written from the Dal Khalsa Camp Office, Gurdaspur, Dukh Niwaran Sahib of Patiala, claimed on behalf of the Dal Khalsa, the responsibility for the assassination of General A. S. Vaidya, the former Army Chief Gurbachan Singh Khalsa, through his letter Ex. G-38 threatened to assassinate the Punjab Police Chief, and

murder 500 Hindus, in case any attempt is made by the police to kill Manbir Singh Chaheru, alias General Hari Singh, of Khalistan Commando Force, now under detention.

G.W. 3 also speaks about his having read a book under the title 'DERIVATIVE ASSASSINATION—WHO KILLED INDIRA GANDHI?', written by the editors of the "EXECUTIVE INTELLIGENCE REVIEW" published from New York, giving details about the concept of Khalistan and the Dal Khalsa and the activities of their leaders, including Dr. Jagjit Singh Chauhan, the Lon-based self-styled President of the Khalsa State. According to him, the authors of the book at p. 216 have narrated that one Kapur Singh, a Professor of COMPARATIVE RELIGION at Oxford, coined the name Khalistan in 1947.

G.W. 3 has identified the article under the caption, "HOW THE BRITISH FOUNDED KHALISTAN" published at p. 25 of the Sunday Weekly magazine for the week 16/22 February, 1986. G.W. 3 further speaks about the facts and information contained in the said book, which is also referred to in the article Ex. G-41. According to the said authors, Dr. Jagjit Singh Chauhan, the former Punjab Finance Minister, issued his call in 1971 for the creation of an independent Khalistan at a press conference in London, which has been his base of operations since then. In 1976, the Sikh Foundation of California was founded. By 1978, the terrorist organisations of the Dal Khalsa and the Babbar Khalsa were started. The author of the book holds responsible these terrorist organisations, namely, the National Council of Khalistan and its off-spring, the Dal Khalsa, for the assassination of Mrs. Indira Gandhi, the former Prime Minister of India. G.W. 3 also speaks about the news item, Ex G-42, appearing in the daily English newspaper, the Hindustan Times, dated 18-8-1986, wherein it is mentioned that the overseas Sikh militant organisations have made elaborate plans to supply arms to Punjab through Pakistan and that according to intelligence reports, the arms which land in the hands of the militants would give necessary fillip to 'on-the-run' extremists following the crusade against the Punjab Director-General of Police (J. F. Ribeiro). The news item further states that a report was published in a regional newspaper of Amritsar that 5,001 Hindus would be massacred in case the police killed Manbir Singh Chaheru, alias Gen. Hari Singh, the self-styled Chief of the Khalistan Commando Force, and the report quoting the letter of the Panthic Committee, further says that Mrs. Gandhi's assassination was followed by the assassination of the former Army Chief, A. S. Vaidya, and "We are on the march to form Khalistan". G.W. 3 also speaks about the news item marked as Ex. G-44 in the Deccan Chronicle dated 14-10-1986, containing the Prime Minister's categorical statement that India is possessed of very hard information that terrorists were being helped, assisted and trained by Pakistan.

G.W. 3 also refers to the news item, Ex. G-45, appearing in the English daily newspaper, the Hindu, dated 19-9-1986, which reports that India keenly desires the British Government to have an understanding on an extradition treaty for the purpose of checking the activities of those preaching violence

and secession in relation to India on the British soil and that India would like the White Hall to adopt the set of measures taken by the Government of Canada, which was the hotbed of Sikh extremist activists and that, as things stand now, the London-based extremists like Dr. Jagjit Singh Chauhan, the self-styled Head of the so-called Khalistan Republic, got away propagating violence and sedition on the specious plea that they were not advocating but merely anticipating an upheaval in India and that the activities of the Indian terrorists in the U.K. had bedevilled bilateral relations in recent years.

G.W. 3 also speaks about an article, Ex. G-48, appearing at pp. 105-106 in India today, dated 31-10-1986 (released during the fortnight of date of evidence) which reports that India is not happy with the British indulgence towards pro-Khalistan elements and its refusal to extradite known Sikh activists and also the displeasure of India on the election of Mohinderpal Singh Bedi (a Sikh) as the Chairman of the Anglo-Asian Conservative Society, the most influential body representing the Asian communities to the Royal British Conservative Tory Party and also about the Tory Party's attitude towards known pro-Khalistan elements. The article also mentions about 300 pro-Khalistan separatists belonging to the organisations like the Babbar Khalsa, the Dal Khalsa and the International Sikh Youth Federation, which is the youth wing of the National Council of Khalistan, in London, lustily raised pro-Khalistan slogans in the Central Office of the said society. The article also mentions about a local Gurmukhi weekly published from London that Sewa Singh Laali, a prominent leader of the Khalistan movement had brought in a bus-load of supporters from Kent. The article further mentions one of Bedi's closest associates, who was Bhai Gurmuk Singh, Chief of the Damdami Taksal, whose name cropped up in the confessions of Manbir Singh Chaheru, the alleged perpetrator of the Muktsar killings, as an overseas contact, who sends large sums of money. The report also mentions about the fact that the large Indian community now in Britain is increasingly convinced that the British Ruling Party is soft on the preaching for the establishment of a separate Sikh State by the leaders of the Dal Khalsa, the National Council of Khalistan, the Babbar Khalsa, the International Vancouver-based Talvinder Singh Parmar on the ground that the British ruling party is a democratic party.

G.W. 2, Prithipal Singh, also corroborated the testimony of G.W. 3 in all particulars and he spoke more or less in similar terms giving out various instances and grounds of alleged unlawful activities of the Pro-Khalistani, anti-national and secessionist activities of the leaders of the Dal Khalsa and other terrorist organisations.

As against this positive evidence placed on record by the Central Government, there is nothing contra and none of the witnesses examined in the case have been cross-examined. As already discussed above, Shri Harsimran Singh, the Chairman of the Dal Khalsa, by his letter dated 12-7-1986, marked as Ex. G-49, has admitted the publication of the first show-cause notice dated 7-6-1986 issued by this Tribunal in the newspapers and, in fact, he has

responded to the show-cause notice through the letter referred to above, which amounts to service of summons and knowledge of the enquiry being proceeded against the Dal Khalsa in this case. But, neither he nor any other office-bearer or member of the Dal Khalsa has chosen to appear and participate in the enquiry and showed cause as to why the Dal Khalsa should not be banned and why the notification, Ex. G-1, dated 1-5-1986, made by the Central Government should not be confirmed. The entire evidence relied upon by the Central Government is based mostly upon the documentary evidence, source reports, news reports appearing in newspapers, articles written in Indian and foreign magazines and other reliable information. There is nothing on record contrary to what the witnesses of the Central Government have testified. Their evidence is genuine, trustworthy, reliable and worthy of acceptance.

On a consideration of the oral and documentary evidence relied upon by the Central Government and also taking into consideration the evidence adduced in support of the grounds mentioned in the notification, Ex. G-1, as discussed and found above, and also the additional grounds and instances of 'unlawful activities' indulged in by the Dal Khalsa and its office-bearers and activists, I hold that the Central Government has established that there is sufficient cause for issuing the notification, Ex. G-1, declaring the Dal Khalsa as an 'unlawful association'.

Accordingly, I find point No. 1 in favour of the Central Government.

Point No. 2.—The next point that has to be determined by this Tribunal is whether the notification dated 1-5-1986, Ex. G-1, is in accordance with the provisions of the Act. The case of the Central Government in respect of this question entirely rests upon the testimony of G.W. 1, Mr. Benjamin, who has been working as the Joint Secretary, Ministry of Home Affairs, Government of India, from 11-8-1985. It is established from his evidence that he has been representing the Government of India in this case as he has been dealing with the internal security matters, especially those relating to the Punjab situation and the individuals and organisations whose activities are prejudicial to the interests of security of the State and prejudicial to the maintenance of public order and who have been indulging in unlawful activities. From his evidence, it is further established that the Central Government issued the first notification, Ex. G-2, on 1-5-1982, under s. 3(1) of the Unlawful Activities (Prevention) Act, 1967, and published in the Gazette of India Extraordinary dated 1-5-1982 and that the same was referred to Honourable Shri Justice D. N. Mehta, Judge, Bombay High Court, and after adjudication, the said Judge passed the order Ex. G-4, confirming the notification, Ex. G-2, holding that the Dal Khalsa was an unlawful association under the Act.

Further, it is established from his evidence that a similar notification, Ex. G-3, was issued by the Central Government on 1-5-1984 under s. 3(1) of the Act and on its reference to Honourable Shri Justice P. R. Gokulakrishnan, former Judge of the Madras High Court and the present Chief Justice of Gujarat High Court, passed an order, Ex. G-5, confirming the notification, Ex. G-3, and holding the Dal Khalsa as an unlawful association. It is also proved from the evidence of G.W. 1 that the first notification, Ex. G-2, as confirmed by the Tribunal, was in force from 1-5-1982 to 30-4-1984, and the second notification, Ex. G-3, as confirmed by the second Tribunal by order Ex. G-5, was in force from 1-5-1984 to 30-4-1986. Further, it is proved by G.W. 1 that the third notification, Ex. G-1, was issued on 1-5-1986 and the same is referred to this Tribunal under Ex. G-28, dated 16-5-1986, for adjudication, which is the subject matter in this case. I have already found under point No. 1 that the Central Government has established that there is sufficient cause for declaring the Dal Khalsa as an unlawful association under Notification Ex. G-1. G.W. 1 has testified that he has relied upon the orders passed by the earlier two Tribunals confirming the earlier two Notifications issued by the Central Government under s. 3(1) of the Act and the Central Government has issued the present notification, Ex. G-1, after taking into consideration the various reports, information and data furnished to the Central Government by various agencies and sources including the Government of Punjab about the alleged unlawful activities of the Dal Khalsa and its office-bearers, its activists and supporters. In view of my finding on the first point and also in view of the evidence of G.W. 1 as regards the Notification Ex. G-1 issued by the Central Government, I hold that the Central Government has established that it has complied with the provisions of the Act and hence the Notification, Ex. G-5, issued by the Central Government is valid.

In view of my findings on point no. 1 and point no. 2, I hereby confirm the declaration made by the Central Government in the notification Ex. G-1, dated 1-5-1986.

A copy of this order is directed to be forwarded to the Central Government immediately for being published in the Official Gazette of India.

This order is pronounced on this the 30th day of October, 1986 in open Tribunal Enquiry held in the Assembly Hall of the Ground Floor of the Punjab Bhavan at New Delhi.

(Illegible)

Chairman,

30th October, 1986.

[No. II/17017/37/86-IS(D.VII)]

C. T. BENJAMIN, Jt. Secy.